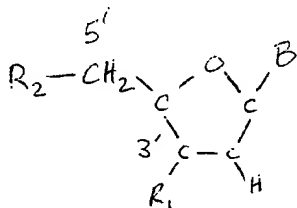


2
2. (Amended) A nucleoside 5'-[phosphate] triphosphate having a removable blocking moiety protecting the 3' position having the following formula:



wherein [R₂] R₂ is triphosphate[, diphosphate or monophosphate;] and wherein [R₁] R₁ is selected from the group consisting of phosphate, phosphoramidate and phosphoramidate.

3
3. (Amended) The nucleoside 5'[phosphate] triphosphate of claim 2 wherein [R₂ is triphosphate and R₁] R₁ is phosphate.

REMARKS

This Amendment under 37 C.F.R. § 1.116 is submitted in response to the outstanding final Official Action dated June 23, 1997. In view of the above claim amendments, enclosed Terminal Disclaimer, and the remarks which follow, reconsideration of the Examiner's rejection and allowance of this application is respectfully requested.

In the present Amendment, claims 1-3 have been amended to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the claims have been amended so that they are now directed to nucleoside triphosphates. This subject matter was included within the scope of the claims as originally filed and therefore does not involve the introduction of new matter.

The claim amendments do not raise any new issues that would call for a new search or require burdensome work on the part of the Examiner. Instead, the claim amendments eliminate issues for appeal and place the claims in better form for consideration on appeal for which entry is permitted under 37 C.F.R. § 1.116. Furthermore, the number of claims do not exceed the number under final rejection.

Therefore, it is respectfully requested that the claim amendments be entered for purpose of appeal in the event for some reason the claims are not deemed to be in condition for allowance.

However, in view of the above claim amendments, the within application is believed to be in condition for allowance. Reconsideration of the rejections by the Examiner is therefore respectfully requested. In the event that any issues remain outstanding, the Examiner is asked to call the undersigned at the telephone number indicated below.

Turning to the Official Action, claims 2-6 were indicated to be allowed, which is gratefully acknowledged. Claim 1 was provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 1 of co-pending Application Serial No. 08/486,535. The Examiner indicated that this was a provisional double patenting rejection because the conflicting claims were not in fact patented. This rejection is respectfully traversed in view of the enclosed Terminal Disclaimer for the reasons set forth hereinafter.

Identically claimed subject matter is also contained in U.S. Patent Application Serial Nos. 08/486,536 and 08/486,897. Applicants stipulate that the claims directed to identical subject matter in the '535, '536 and '897 applications will be cancelled. To the extent that the claims of the present application would be obvious in view of the claimed subject matter remaining in these applications, Applicants submit the enclosed Terminal Disclaimer in order to obviate any obviousness-type double patenting.

By agreeing to cancel the conflicting claims in the co-pending applications, this rejection of claim 1 under 35 U.S.C. § 101 for statutory-type double patenting has thus been overcome. Reconsideration of this rejection by the Examiner is therefore respectfully requested.

In view of the above claim amendments, enclosed Terminal Disclaimer and foregoing remarks, this application is now in condition for allowance. Reconsideration is respectfully requested. However, the Examiner is reminded to

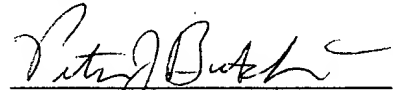
telephone the undersigned if it is believed there are any remaining issues in this application to be resolved.

Finally, if there are any additional charges in connection with this response, the Examiner is authorized to charge Applicants' Deposit Account No. 12-1095 therefore.

Respectfully submitted,

ATTORNEY OF RECORD

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